

LDWSF
12.3.129.1v2
05/21/02

ATTACHMENT 22

American Civil Constructors West Coast, Inc.
Response to Supplemental 104(e) Request (January 29, 2010)
Lower Duwamish Waterway Superfund Site

USEPA SF



1316939

May 21, 2002

To: Tim Coster ✓ Done
Wil Clark copy to Wil
Herman Koempel

From: Scott McKellar

Subject: HCC Yard "Pollution Plan" (Attached)

We have attached the HCC Yard "Pollution Plan" for your review / comments / file / Action. This good work product was generated by Bob Ortbla so we could comply to our lease requirements.

Action Required:

All --- Please review & comment

Tim Coster --- "Haz. Material Control Plan" - Complete ASAP (Due May 1)

Tim Coster --- "Housekeeping": Weekly = audit / cleaning
Monthly = access road
Quarterly = drain clean

Tim Coster --- "Pathways": Paint Fish on Inlet - ASAP
Yellow Spill Kit - ASAP

Tim Coster --- Post Plan in Yard Office

Herman --- Send "Haz. Material Control Plan" Compliance sheet to Hal Hurten on Quarterly basis

Herman --- Setup a separate file & file this plan & all action "Hurten Lease Pollution Plan Action"

5/24/02 ✓ Herman --- Copy Plan To Wilts for their files

SECOND AMENDMENT TO LEASE AGREEMENT
AND
RIGHT OF FIRST REFUSAL

This Second Amendment dated this 16 day of January, 2000, to that certain Lease Agreement and Right of First Refusal dated and effective January 1, 1998, ("Lease") by and between Harald L. Hurlen, as Lessor, and Hurlen Construction Company, a Washington Corporation, as Lessee.

1. Lease Amendments. Lessor and Lessee hereby amend the Lease as follows:

- a. Paragraph 4, "RENT", is hereby deleted in its entirety and the following paragraph is substituted therefor:
"RENT"

4. For the year 2001, Lessee agrees to pay to Lessor, in lawful money of the United States, as rental for said Premises a yearly rent of Sixty-eight Thousand Fifty-seven and 51/100 Dollars (\$68,057.51). Payment shall be made in a monthly amount of one-twelfth (1/12) of the rent owed for the year, which is the sum of Five Thousand Six Hundred Seventy-one and 46/100 Dollars (\$5,671.46) per month for 2001.

The rent shall be increased by three and one-half percent (3 1/2%) in each successive year of the Lease Agreement. Rental payment shall be made on the 1st of each month in the amount of one twelfth (1/12th) of the total rent due for that year. Set forth below is a schedule of the yearly rents payable for the years 2001, 2002, 2003, 2004 and 2005.

YEAR	RENTAL AMOUNT
2001	\$68,057.51
2002	70,439.52
2003	72,904.91
2004	75,456.58
2005	78,097.56

- b. Paragraph 27, "POLLUTION LIABILITY", shall be added in its entirety.

27(a). With the potential of the Duwamish River being named to the federal Superfund list, the Lessee shall eliminate all possibilities of any contaminants and/or "Hazardous Materials" from entering the Duwamish River. There shall be Compliance Audits performed quarterly by the Lessee, with a record kept at the site.

27(b). Lessee shall develop a series of "Best Management Practices" for dealing with the site specific issues and potential pollution sources. Along with this, a methodology of "Housekeeping" shall be developed specifically addressing the issue of pollution and the prevention thereof.

27(c). All effluent pathways shall be identified and signed. Lessee shall not permit any direct effluent and /or stormwater runoff to be allowed to enter the Duwamish River.

27(d). Lessee shall develop a "Spill Control and Containment Plan" in accordance with applicable laws and regulations, outlining potential liabilities and correct responses for each.

27(e). All these programs shall be developed and implemented as soon as reasonably practical. Copies of same shall be mailed to Lessor's address of record. Failure to comply with these requirements shall be cause for termination of the Lease.

c. The term "Hazardous Material" for purposes of this Lease means any chemical, substance, material or waste or component thereof which is now or hereafter listed, defined or regulated as a hazardous or toxic chemical, substance, material or waste or component thereof by any federal, state or local governing or regulatory body having jurisdiction. Lessee agrees and warrants that it has not since January 1, 1996, released or discharged Hazardous Material onto the premises and Lessee agrees not to release or otherwise discharge any Hazardous Material onto the Premises or permit Lessee's employees, agents, contractors or other occupants of the premises to engage in such activities. Lessee further agrees that it shall at all times transport, handle, use, store and/or otherwise maintain any Hazardous Material on or about the Premises according to then-existing laws established by any federal, state, or local governing or regulating body having jurisdiction. In the event of a past or future violation of the foregoing, Lessee shall immediately, properly and in compliance with all applicable laws, rules and regulations, clean up and remove any Hazardous Material from the Premises or any other affected property at Lessee's expense. Lessee also agrees to indemnify and hold Lessor harmless of, from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever (including without limitation court costs and attorney's fees) which at any time or from time to time may be paid, incurred or suffered by or asserted against Lessor for, with respect to, or as a direct or indirect result of any breach by Lessee, it's agents, invitees, officers, or licensees of any of the covenants or provisions set forth in this Agreement. The provisions of and undertakings and indemnifications set forth in this agreement shall survive the termination and expiration of the Lease by and between Lessor and Lessee, and shall continue to be the obligation of the respective parties, their successors and assigns.

d. Paragraph 24(d), "INSURANCE/CLAIMS," Shall be amended by adding the following paragraph: Lessee shall obtain and maintain a

POLLUTION PLAN

May 1, 2002

INTRODUCTION

As required by the Jan. 16th, 2000 Lease between Harald L. Hurlen, as Lessor and Hurlen Construction Company the following Pollution Plan has been prepared.

The lease requires the following four action items::

1. 27(a) With the potential of the Duwamish River being named to the Federal Superfund list, the Lessee shall eliminate all possibilities of any contaminants and/or "Hazardous Materials" from entering the Duwamish River. There shall be Compliance Audits performed quarterly by the Lessee, with a record kept at the site.
2. 27(b). Lessee shall develop a series of "Best Management Practices" for dealing with the site specific issues and potential pollution sources. Along with this, a methodology of "Housekeeping" shall be developed specifically addressing the issue of pollution and the prevention thereof.
3. 27(c). All effluent pathways shall be identified and signed. Lessee shall not permit any direct effluent and/or storm water runoff to be allowed to enter the Duwamish River.
4. 27(d). Lessee shall develop a "Spill Control and Containment Plan" in accordance with applicable laws and regulation, outlining potential liabilities and correct responses for each.

Item 1: 27(a) Hazardous Materials (HM)

Hazardous Material Control Plan

Any substance or material which because of its quantity, concentration, or physical, chemical, or infectious characteristics may pose a hazard to human health or the environment. As a minimum, includes all material regulated by Title 49 CFR 172, or Title 29 CFR 1910.

Copies of MSDS for each HM to be used with estimated quantities and the process that describes how each will be used.

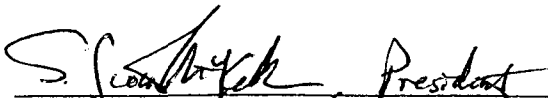
Summarize HM:

<i>HM Product Name/ Part Name</i>	<i>Material Mfg. Name</i>	<i>Estimated Quantity</i>	<i>Process Type</i>

MSDS's shall be for current version for this product.

A copy of the MSDS's shall be kept on site where work is being performed and are available for review upon request.

This form will be updated, reviewed, and signed at the end of each quarter.


S. Scott McKellar, President
Hurlen Construction Co.

5/1/02
Date

Item 2: 27(b). Best Management Practices

- A. Material Identification -see 27(a)
- B. Pathways Identification -see 27(c)
- C. Prevention Training of workers and management

Weekly safety meetings will include reviews of items A, B, & D
Management will maintain items A, B, & D

- D. Spill Control and Containment Plan –see 27(d)

“Housekeeping” Methodology

On a weekly basis, Hurlen’s yard supervisor will conduct an audit of Hurlen’s two leased yards to identify potential pollutants and will take proactive action to secure or dispose the materials. On a monthly basis and more often if necessary during rainy months, the main road access pathways will be checked for adequate rock or concrete cover to eliminate silt migration. Additionally, on a quarterly basis, the inlet drain will be cleaned to allow proper storm water runoff.

Item 3: 27(c). Effluent pathways shall be identified and signed.

There is one storm water drain on the site that drains an unpaved equipment yard to the Duwamish River. We will maintain a painted fish on this inlet top as a reminder of the pollution potential.

Equipment repairs that have the potential to spill fluid are preformed on a concrete pad away from the storm drain. A bright yellow spill kit is stationed on this pad, and employees are trained to cleanup all spills.

The potential for a spill off the dock or off a barge is possible. A bright yellow spill kit is stationed on each derrick barge, and employees are trained to cleanup all spills.

During the unloading of barges, equipment, material, and construction demolition waste could be dropped into the Duwamish River. Our personnel are trained to prevent material spills but, if debris enters the Duwamish River, our personnel are trained to remove and dispose the debris.

Item 4: 27(d). Spill Control and Containment Plan

Following is a brief description of the various elements of the SPCC plan:

Site Information: Identifies general site information useful in recognizing potential sources of spills, and identifying the “person in charge” responsible for managing and implementing the SPCC plan.

Management Approval: Provides a commitment from the management at Hurlen Construction Co. to control and cleanup any harmful quantity of oil or hazardous substance released to the waters or land of the State of Washington.

Site Description: Provides a general description of the site including site location, topography, soils, storm drainage system, and adjacent waterways.

Planning and Recognition: Identifies site specific information including critical areas around the site, soil type and other pertinent site information, drainage pathways, and location of staging, fueling, and decontamination areas.

Spill Prevention and Containment: Describes types of secondary containment or diversion structures that will be used to handle sources of spills at the project site.

Spill Response: Outlines spill response procedures including assessing the hazard, securing spill response and personal protective equipment, containing and eliminating the spill source, and mitigating and removing the spilled material.

Reporting: Describes federal and state notification and reporting requirements.

Program Management: Identifies site security measures, inspection and audit requirements, and personnel training for construction personnel.

SITE INFORMATION

Location: 620 S. Riverside Drive
700 S. Riverside Drive
Seattle, Washington

Summary of Potential Spill Sources:


Equipment and Materials Brought On Site - The equipment and materials brought on site that have the potential for a contamination source include: construction demolition material, salvaged steel & wood, paints, fuel, lubrications, and welding equipment.

Contractor Personnel Responsible for Spill Prevention

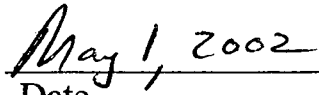
Scott McKellar, President (206) 763-1230

MANAGEMENT APPROVAL

This spill prevention Control and Countermeasure Plan (SPCC) is supported by management with the authority to commit the necessary resources including manpower, equipment and materials to expeditiously control and remove any harmful quantity of oil or hazardous substances released to the water or land of the State of Washington.



S. Scott McKellar, President
Hurlen Construction Co.



Date

SITE DESCRIPTION

The site is located in Seattle, Washington on the Duwamish Waterway.
A site plan is provided in Attachment A.

PLANNING AND RECOGNITION

Soil Type and Site Conditions

Fill material over tide flats.

Drainage Pathways

Storm drains, and surface and subsurface re-off into the Duwamish River.

Potential Sources

Floating derrick, pile driving equipment, welding machines, paint

Equipment Staging Area

Heavy equipment brought on site will include the floating and land cranes. Smaller portable equipment includes generators, pumps, welding machines, mobile offices.

Fueling and Staging Areas

Fuel for the floating crane will be stored in the approved vessel storage tanks within the barge. Fueling of land equipment and small equipment will be done using spill pads to catch potential overflow.

Decontamination Area, Waste Storage Area

At least one 55 gallon drum with a lid will be kept on site at the site for small spill cleanup.

Items Brought on Site

Equipment and fuel are discussed above. Construction materials brought on site include steel piles, rubber fenders, miscellaneous bolts, small structural steel shapes, chain and shackles. Demolition material from projects, unloaded from barges to dump trucks for disposal at dump sites.

POTENTIAL SOURCES OF SPILLS TABLE

<u>Equipment</u>	<u>Planned Spill Prevention</u>
Waterborne Equipment (Cranes & Tug)	1,2,3,8
Material Barge	1,2,3
Compressor	1,2
Welders	1,2
Storage of Materials	1,4,8
Land Cranes & Heavy Equipment	1,2

KEY

- | | |
|---------------------------|------------------------------|
| 1. Spill kit in proximity | 5. Pop-up pool |
| 2. Absorbent spill pad | 6. Plastic Sheeting |
| 3. Containment boom | 7. Catch basin cover |
| 4. Spill Pallet | 8. Daily & weekly inspection |

SPILL PREVENTION AND CONTAINMENT

Introduction

This section identifies the types of secondary containment or diversionary structures that will be used to handle spill sources identified in the Planning and Recognition section of this plan.

Spill Kits

A spill response kit is located on each floating crane. The spill response kit include gloves, goggles, absorbent pads and socks, disposal bags and ties, and degreaser wipes.

Additional spill prevention and cleanup equipment and material is on site for land based spill.

Known Potential Sources of Spills

Material Staging Area: A spill from containers or drums in the material staging area will be contained within area in which they are stored.

Equipment Staging Area: An equipment leak from a fuel tank, equipment seal, or hydraulic line will be contained within a spill pad placed beneath potential leak sources. A leak from parked equipment will be contained by removing the soil to a drum using a shovel.

Re-fueling Operations: A spill during fueling operations will be contained by absorbent pads used below the transfer point. The transfer of fuel into portable equipment will be performed using a funnel and/or hand pump and a spill pad used to absorb any incidental spills/drips. We follow the Seattle Fire Dept. permit requirement for refueling.

SPILL RESPONSE

Hurlen Construction Co. realizes the importance of immediate response to any spills of regulated materials. As such, we recognize that the elements of Spill Response, and train our personnel and subcontractors on the appropriate actions

that must be taken and information that must be communicated to the "Person in Charge". A detailed spill response plan has been developed for each potential spill source identified for the site.

1. Equipment Leaks
2. Fueling of Equipment
3. Material Storage Leaks
4. Waterborne Equipment

Potential Spill Source 1: Equipment Leaks, and

Potential Spill Source 2: Fueling of Equipment

Potential Spill Source 3: Material Storage Leaks

Spill Type: gasoline, diesel fuel, hydraulic fluid, oil, solvents, paints, detergents, sanitizing fluids, sewage, etc.

Spill Response Equipment: appropriate PPE (fuel resistant gloves, eye protection), absorbent pads and clay, plastic bags, "non-sparking" shovel, plastic sheeting, and a 55 gallon open top drum.

Spill Response Equipment Location: Nearest Spill Kit on Floating Crane or on site.

Spill Response Procedure: In the case of a release or spill from equipment, the following spill response procedures will be conducted:

1. Stop operations immediately and secure the area.
2. Identify the source/origin of the release and refer to MSDS sheets for PPE.
3. Leaks, spills and other incidents will be reported to the "person in charge" who will immediately contact Scott McKellar at the Hurlen Construction Co. main office who will report the spills to the to the proper agencies as required.
4. Assess the hazard.
 - a. If the spill cannot be safely and effectively controlled, direct safe evacuation of the area and notify outside

response services. Implement Emergency Action Procedure (EAP) as appropriate.

- b. If the spill is "incidental" and can be safely and effectively controlled by contractor personnel, then:
1. Secure the area.
 2. Obtain appropriate spill response equipment and personnel protective equipment.
 3. Identify the source of the release. Determine the origin of the release. Is the release from a leaking fuel tank? A ruptured hydraulic hose? On overfilled fuel tank?
 4. Contain the spill using appropriate spill response equipment provided in the spill response kit.
 5. Protect sensitive areas. Deploy containment booms and water booms if necessary
 6. Clean up the spill.
If the spill area is not paved the surface soil will be contaminated. Once the source and the spill have been contained, remove visibly contaminated surface soil (wet, stained, and/or odorous) with a shovel). Depending on the volume, removed soil is to be placed in either a labeled drum, or in a stockpile. If removed soil is to be placed in a stockpile, the stockpile must be placed on and covered with plastic. Sandbags will be used to anchor the plastic sheeting down.

Potential Spill Source 4: Waterborne Equipment

<u>Spill Type:</u>	contaminated bilge discharge, gasoline, diesel fuel, hydraulic fluid, oil, solvents, detergents, etc.
<u>Spill Response Equipment:</u>	Appropriate PPE (fuel resistant gloves, eye protection), absorbent pads, plastic bags, "non-sparking shovel, plastic sheeting, and a 55 gallon open top drum, additional

containment booms, oil absorbent pads for use in the water.

Spill Response Equipment Location: Spill Kit on board the floating crane.

Spill Response Procedures: In the case of a release or spill equipment or watercraft, the following spill response procedures will be conducted:

1. Stop operations immediately and secure the area.
2. Identify the source/origin of the release and refer to MSDS sheets for PPE.
3. Notify the "person in charge" for the project.
4. Assess the hazard.
 - a. If the spill cannot be safely and effectively controlled, direct safe evacuation of the area, and notify outside response services. Implement Emergency Action Procedure (EAP) as appropriate.
 - b. If the spill is "incidental" and can be safely and effectively controlled by contractor personnel, then:
 - (1) Secure the area.
 - (2) Contain the spill using appropriate spill response equipment provided in the on-site spill response kit.
 - (3) Protect sensitive areas. Deploy containment booms and water booms if necessary.
 - (4) Clean up the spill.
5. If the spill is large and cannot be safely and effectively controlled by contractor personnel, a qualified emergency response remedial contractor will be immediately notified.
6. The "person in charge" will notify the appropriate local, state, and/or federal agencies

REPORTING

The "person in charge" will contact regulatory agencies regarding spill response activities. We will ensure the proper information and data is collected, so that it can accurately be communicated to the appropriate agencies. An overview of the reporting requirements is provided below as a reference.

Federal Reporting Requirements

Any spill of oil which

- A. violates water quality standards,
- B. produces a "sheen" on a surface water, or
- C. causes a sludge or emulsion

must be reported immediately by telephone to the National Response Center Hotline at (800) 424-8802.

Any oil, hazardous substance, or hazardous waste release, which exceeds a reportable quantity, must be reported immediately by telephone to the National Response Center Hotline at (800) 424-8802.

Any emergency event that requires activation of the SPCC plan or a fire, explosion or spill of any amount that reaches navigable waters of the United States, must be reported in writing to the USEPA Regional Administrator within fifteen (15) days.

If a discharge of more than 1,000 gallons of oil reaches water of the U.S., or if two spill events, reportable under the Federal Water Pollution Control Act, occur within any 12 month period, a report must be submitted in writing to the USEPPA Regional Administrator within 60 days.

Washington State Reporting Requirements

Any spill of oil or hazardous substance to waters of the state must be reported immediately by telephone to the Washington State Emergency management Division at (800) 258-5990.

Any release of a hazardous substance that may be a threat to human health or the environment must be reported to the Washington State Department of Ecology, Toxics Cleanup Program immediately, but no longer than 90 days of discovery.

Any release from a UST that may be a threat to human health or the environment must be reported to the Washington State Department of Ecology, Toxics Cleanup Program within 24 hours of the release.

Local Reporting Requirements

In the event of a fire and/or explosion, contact 911

If a spill cannot be safely and effectively contained and controlled, a designated spill cleanup contractor will be contacted.

NATIONAL RESPONSE CENTER

Reporting spills to water Phone: (800) 424-8802

WASH. STATE EMERGENCY MANAGEMENT DIVISION

Reporting spills to water Phone: (800) 258-5990

U.S. COAST GUARD

Reporting spills to water Phone: (206) 217-6000

SPILL RESPONSE CONTRACTOR

Foss Environmental Services Phone: (800) 909-3677

PROGRAM MANAGEMENT

Introduction

The management of the implementation of this SPCC plan is the responsibility of Hurlen Construction Company "person in charge". As such, we recognize that periodic review of material and equipment storage practices and equipment integrity and supplies is important to our success in implementing this SPCC plan. Also, we recognize the importance of a secured facility to protect against accidents and vandalism that may result in a spill of material that threatens human health or the environment. Our procedures to address these issues are provided below.

Site Inspections

Daily site inspections are conducted each day to ensure that spill controls are in place and remain effective (Attachment C). Hurlen Construction Company will conduct inspections at the site at least weekly, or more often as required (such as during or after more than 0.5 inches of rainfall).

Site Security

The storage areas are located in a fenced area. The fence is locked at the end of each workday. Only authorized personnel are permitted onto the site.

Personnel Training

Hurlen Construction Company employees will be trained on the contents of this SPCC plan including spill source and receptor recognition, spill prevention planning, spill prevention techniques, spill response measures, and spill reporting protocol during their initial orientation as well as periodic "tool box talks".

Responsibilities of On-site Personnel

All personnel have responsibility for spill prevention. Any Hurlen Construction Company employee, or subcontract employee who notices a leak will respond as appropriate based on their training, or if a spill has occurred, they will assume a defensive posture by avoiding the area and immediately notifying the "person in charge".

Person-in-Charge

The designated person responsible for assessing spills, implementing this SPCC plan, and contacting regulatory agencies is Scott McKellar (206) 763-1230.

Emergency Services

The local fire department is responsible for emergency containment procedures when called to the site. The fire department takes measures necessary to prevent fire and explosion, and to protect people and property in the event of a fire or explosion.

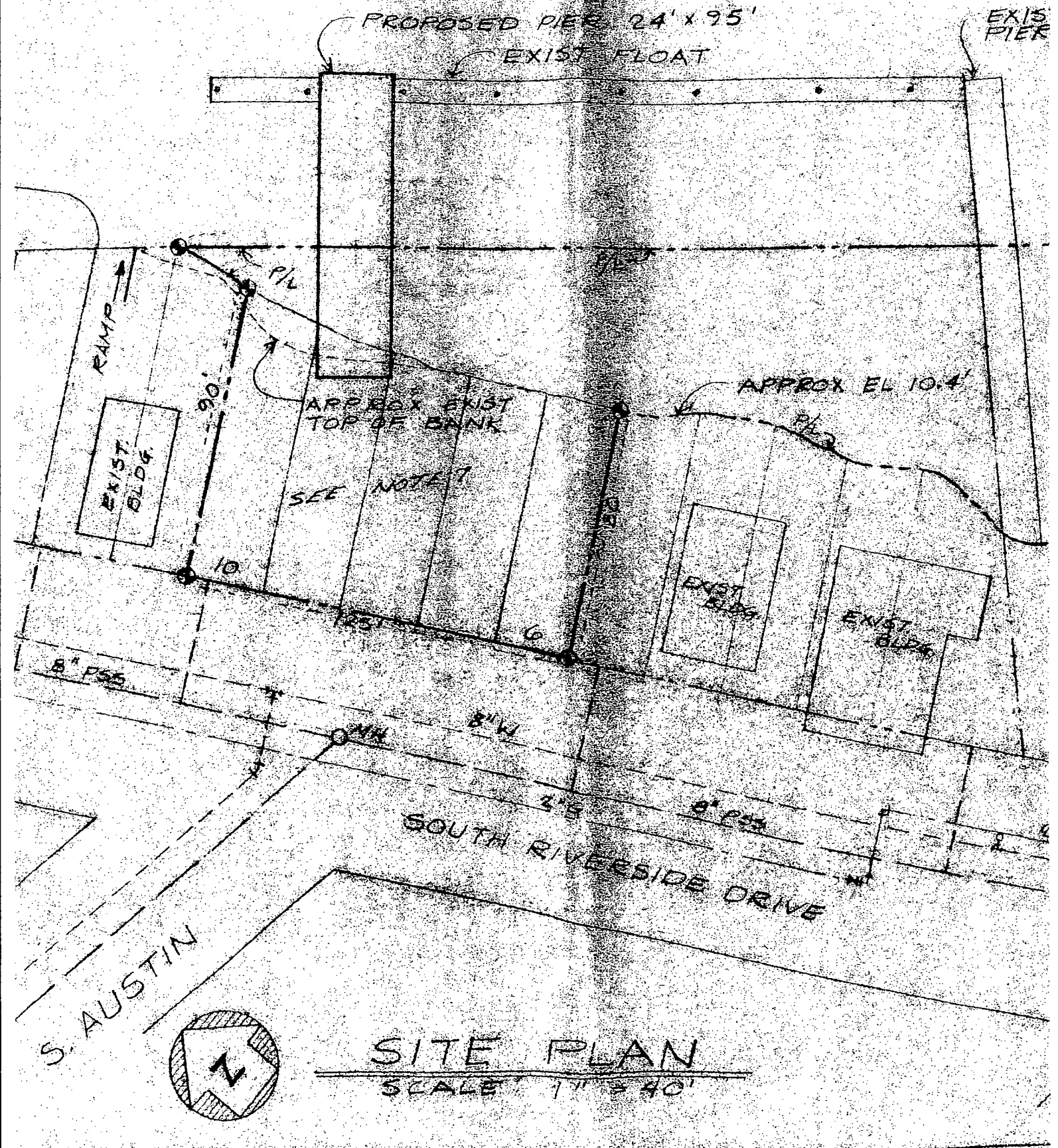
Spill Response Contractor

The spill response contractor is responsible for cleanup activities required as a result of spills or leaks when Hurlen Construction Company does not have the training, equipment or materials to cleanup spills.

ATTACHMENTS

- A. Site Plan
- B. Hurlen Construction – Yard Spill Report

Attachment A



EXIST
PIER

EXIST GRID

EXIST WHARF

EXIST W

EXIST SHD

EXIST
SHD

EXIST
SHD

EXIST
SHD

SOUTH RIVERSIDE DRIVE

HOLDEN

12" W
36" PSS

2' G

3' PSS

2' G

12

Attachment B

Hurlen Construction Yard -Spill Report

1. Employee: _____
2. Location in yard: _____
3. Date: _____ Time: _____
4. Spill Source: _____
5. Spill Quantity: _____
6. Spill Material: _____
7. Attach Copy of MSDS: _____
8. Has Spill been stopped? Yes ___ No ___
9. What clean has been done? _____

10. Is the Spill a danger to life or property? Yes ___ No ___
11. If yes, what action has been taken? _____

12. Is the Spill a reportable quantity? Yes ___ No ___
NATIONAL RESPONSE CENTER
Phone: (800) 424-8802
WASH. STATE EMERGENCY MANAGEMENT DIVISION
Phone: (800) 258-5990
U.S. COAST GUARD
Phone: (206) 217-6000
Foss Environmental Services
Phone: (800) 909-3677
13. How long will the Spill take to clean up? _____

14. Were applicable procedures being followed at the time of the Spill? _____

15. What should be done to prevent a Spill recurrence? _____

S. Scott McKellar, President
Hurlen Construction Co.

Reviewed Date